

IV. REMARKS

Status of the Claims

Claims 1,4,6 and 18 are amended. Claims 1,2,4-7,11,13,14,16-18 are submitted for consideration.

Summary of the Office Action

Claims 1,2,4,5,17 and 18 stand rejected under 35USC103(a) on the basis of the cited reference Felix, et al, U.S. Patent No. 6,233,231. Claims 6,7,11,13,14 and 16 stand rejected under 35USC102(e) based on the cited reference Felix, et al. The Examiner is respectfully requested to reconsider his rejections in view of the following remarks.

A proposed correction to figure 3 is attached for the Examiner's approval.

Although a brief reference is made to the previously cited reference Warren, the Examiner does not apply this reference in the subject Office Action. It is therefore believed that the Examiner intended to withdraw this citation and no remarks are directed to it below.

Applicant has amended the claims to clarify the novel features of the invention for which protection is sought in this application. These amendments are submitted after final rejection in order to place the claims in condition for allowance or in the alternative to place the claims in better condition for appeal. The Examiner is requested to exercise his discretion and enter these amendments.

The Invention

The invention as defined in independent claims 1, 6 and 13 have been amended to clearly state that the method and system of this application relates to alteration of the code rate of an incoming signal to accelerate the detection of the signal code.

Responsive Remarks

The Examiner continues to cite the reference Felix as relating to changes in code rates. In particular the Examiner cites the material at column 8, lines 45-61, as follows (emphasis added):

"Returning to step 603, if at step 603 it is determined that system interference is not above the threshold, then the logic flow continues to step 609 where it is determined if the data transmission rate can be increased. If at step 609 it is determined that the data transmission rate can be increased, then the logic flow continues to step 611 where the data transmission rate is increased, otherwise the logic flow returns to step 601. In the preferred embodiment of the present invention the data transmission rate is increased by simultaneously broadcasting a new code assignment with code assignment channel 104, and changing the current OVSF code utilized by orthogonal encoder 427. For example, if orthogonal coder 427 was utilizing a length 128 OVSF code (corresponding to 32 ksymbols/sec), the symbol rate could be increased to 256 ksymbols/sec by changing the OVSF code to a length 16 orthogonal code. The logic flow then turns to step 601."

There is no mention of changing code rate. There is only mention of changing data rate. Data rates are not the same as code rates. Code rate changes in this application are used to increase speed of signal and signal code sequence acquisition.

The purpose of the system of Felix is stated at column 2, lines 20-30, as follows:

"To address the need for a communication system that does not occupy dedicated data channels for lengthy periods of time, and does not excessively contribute to overall system interference, a method and apparatus for data transmission within a communication system is provided. During operation remote units having large

amounts of data to transmit will be dynamically assigned Orthogonal Variable Spreading Factor (OVSF) codes corresponding to higher data rates and remote units with lower amounts of data to be transmitted will be assigned OVSF codes corresponding to lower data rates. Additionally, in an alternate embodiment of the present invention, once system interference becomes greater than a predetermined threshold, the data rate between the base station and remote units in communication with the base station is reduced."

The cited reference Felix, therefore, represents a solution to a problem different than that of the subject application and utilizes a different means to obtain its solution. The teaching of Felix et al does not support the Examiner's position.

As previously indicated in the prosecution of this application, it is well settled that a claim is anticipated, only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The system of reference Felix et al is missing important elements of the claims. There is no provision in the system of Felix for changing to a code sequence having a higher code rate. This required element is clearly stated in all of the claims under consideration. The cited reference Felix, et al, therefore, does not anticipate the claims of this application.

The rejection based on obviousness is also unsupported in view of the above described deficiencies of the cited reference Felix.

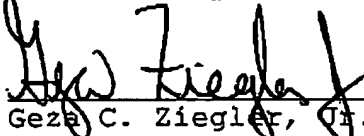
The above arguments are equally applicable to the rejected dependent claims 2,4,5,7,11,14 and 16-18.

In view of the remarks stated above, Applicant submits that all of the claims under consideration contain patentable subject matter and favorable action by the Examiner is respectfully requested. Should any unresolved issues remain, the Examiner is

invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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22 July 2004
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